IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 2198 of 2005

Between:

S. Rafi S/o. Basha Mohiddin,
R/o. R.R. Nagar, Aragonda,

Tavanampalli Mandal, CHittoor District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, Transport Department, rep. by its

Secretary, Regional Transport Authority, Chittoor, Chittoor District.
2. The Motor Vehicle Inspector, Chittoor, Chittoor District.
3. The Inspector of Police, Special Squad, Chittoor Region,
   Chittoor District.
4. The Station House Officer, Puthalapattu Police Station,
   Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a *Writ of Mandamus* or any other appropriate writ, order or direction declaring the action of the respondents in seizing and detaining petitioner's motor vehicle bearing Registration no. AP 21-A 7682 pursuant to the Vehicle Check Report No. 2701558, dt. 7-12-2004 and Check Report dt. 28-12-2004 of the Respondents herein as arbitrary, illegal and unconstitutional.

Counsel for the Petitioner: MR.T.NAGARJUNA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following:

ORDER:

The petitioner has filed this writ petition seeking a direction to the respondents to release his Vehicle Maxicab bearing Regn. No.AP 21 A 7682

2 . The 2n d respondent seized the petitioner's vehicle under check report bearing No.2701558, dated 07-12-2004 and check report dated 28.12.2004 for commission of certain irregularities and kept vehicle under detention in the Police Station of Puthalapattu, Chittoor District.

3. The learned counsel for the petitioner has contended that the petitioner is educated un-employee and he is eking out his livelihood by plying of the seized vehicle and that he made a representation, dated 07.01.2004 to the 1st respondent requesting him to release the vehicle. The 1st respondent assured to release the vehicle but no action has been taken for release of vehicle. Therefore, he prays to grant interim custody of the vehicle to the petitioner. The counsel has further contended that if any violations are made, the petitioner will be liable to pay the amount.

4. The learned Government Pleader for Transport has opposed the application filed by the petitioner on the ground that the petitioner has to approach the 1st respondent-Transport authority for grant of interim custody of the vehicle and appropriate orders have to be passed by the 1st respondent, but the petitioner, without approaching the 1st respondent has filed this writ petition.

5. As per the check report, dated 07.12.2004, the 2nd respondent seized the vehicle of the petitioner for commission of certain irregularities. Though it is asserted in the affidavit that the petitioner made a representation, dated 07.01.2005, the 1st respondent has not taken any steps for grant of interim custody of the vehicle since the vehicle is being used for the purpose of carrying the passengers. Therefore, it would be appropriate to direct the interim custody of the vehicle to the petitioner.

6 . In the light of the above circumstances, the 1st respondent-Secretary, Regional Transport Authority, Chittoor is directed to release the vehicle of the petitioner for interim custody on condition that the petitioner deposits Rs.7,500/- (Rupees Seven Thousand Five Hundred Only) on the following terms and conditions.

1. *that the petitioner shall not transfer the vehicle to any other person without the permission of the 1st respondent.*
2. *that the petitioner shall not change the engine or any part of the vehicle.*
3. *that the petitioner shall produce the vehicle as and when required by the authorities concerned.*
4. *that the petitioner shall participate in the enquiry that is going to be conducted by the 1st respondent after receipt of show cause notice by filing his explanation.*
5. *that the tax, if any, may be adjusted out of the amount deposited by the petitioner.*

The 2nd respondent may take further steps for recovery of the tax from the petitioner.

7. Accordingly, the writ petition is disposed of in terms of the above directions. There shall be no order as to costs.

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(K.C. BHANU, J)

Date: 10.02.2005.

Note: Wire at party's costs.

B/o.

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of Andhra Pradesh,

Transport Department, Regional Transport Authority,

Chittoor, Chittoor District.
2. The Motor Vehicle Inspector, Chittoor, Chittoor District.
3. The Inspector of Police, Special Squad, Chittoor Regiona,
   Chittoor District.
4. The Station House Officer, Puthalapattu Police Station,
   Chittoor District.

5. Two C. Cs to G.P. for Transport, High Court Buildings,

Hyderabad (OUT).

6. 2 CD copies

*Form-NIC-OGS/WP{**VSMI**}*